

Senate Amendment to
House File 2384

H-8401

1 Amend House File 2384, as amended, passed, and reprinted by
2 the House, as follows:

3 1. Page 1, by striking lines 1 through 4 and inserting:

4 <DIVISION I

5 PHARMACY BENEFITS MANAGERS, PHARMACIES, AND PRESCRIPTION DRUG
6 BENEFITS>

7 2. Page 1, after line 26 by inserting:

8 <____. "*Facility*" means an institution providing health
9 care services or a health care setting, including but not
10 limited to hospitals and other licensed inpatient centers,
11 ambulatory surgical or treatment centers, skilled nursing
12 centers, residential treatment centers, diagnostic, laboratory
13 and imaging centers, and rehabilitation and other therapeutic
14 health settings.>

15 3. Page 1, by striking lines 27 through 30 and inserting:

16 <____. "*Health benefit plan*" means a policy, contract,
17 certificate, or agreement offered or issued by a third-party
18 payor to provide, deliver, arrange for, pay for, or reimburse
19 any of the costs of health care services.

20 _____. "*Health care professional*" means a physician or other
21 health care practitioner licensed, accredited, registered, or
22 certified to perform specified health care services consistent
23 with state law.

24 _____. "*Health care provider*" means a health care professional
25 or a facility.>

26 4. Page 2, by striking lines 1 through 9 and inserting
27 <corporation, or a plan established pursuant to chapter 509A
28 for public employees. "*Health carrier*" does not include any of
29 the following:>

30 5. Page 2, before line 10 by inserting:

31 <a. The department of human services.

32 b. A managed care organization acting pursuant to a contract
33 with the department of human services to administer the medical
34 assistance program under chapter 249A or the healthy and well
35 kids in Iowa (hawk-i) program under chapter 514I.

1 *c.* A policy or contract providing a prescription drug
2 benefit pursuant to 42 U.S.C. ch. 7, subch. XVIII, part D.

3 *d.* A plan offered or maintained by a multiple employer
4 welfare arrangement established under chapter 513D before
5 January 1, 2022.>

6 6. Page 3, by striking lines 4 and 5 and inserting:
7 <____. "*Pharmacy benefits manager*" means a person who,
8 pursuant to a contract or other relationship with a third-party
9 payor, either directly or through an intermediary, manages a
10 prescription drug benefit provided by the third-party payor.>

11 7. Page 3, by striking lines 18 and 19 and inserting:
12 <____. "*Prescription drug benefit*" means a health benefit
13 plan providing for third-party payment or prepayment for
14 prescription drugs.>

15 8. Page 3, by striking line 22 and inserting:
16 <____. "*Rebate*" means all discounts and other negotiated
17 price concessions paid directly or indirectly by a
18 pharmaceutical manufacturer or other entity, other than a
19 covered person, in the prescription drug supply chain to a
20 pharmacy benefits manager, and which may be based on any of the
21 following:

22 *a.* A pharmaceutical manufacturer's list price for a
23 prescription drug.

24 *b.* Utilization.

25 *c.* To maintain a net price for a prescription drug for a
26 specified period of time for the pharmacy benefits manager
27 in the event the pharmaceutical manufacturer's list price
28 increases.

29 *d.* Reasonable estimates of the volume of a prescribed drug
30 that will be dispensed by a pharmacy to covered persons.

31 ____. "*Third-party payor*" means any entity other than a
32 covered person or a health care provider that is responsible
33 for any amount of reimbursement for a prescription drug
34 benefit. "*Third-party payor*" includes health carriers and other
35 entities that provide a plan of health insurance or health

1 care benefits. *"Third-party payor"* does not include any of the
2 following:

- 3 a. The department of human services.
- 4 b. A managed care organization acting pursuant to a contract
5 with the department of human services to administer the medical
6 assistance program under chapter 249A or the healthy and well
7 kids in Iowa (hawk-i) program under chapter 514I.
- 8 c. A policy or contract providing a prescription drug
9 benefit pursuant to 42 U.S.C. ch. 7, subch. XVIII, part D.>

10 9. Page 3, line 33, by striking <health carrier> and
11 inserting <third-party payor>

12 10. Page 4, line 4, by striking <health carrier> and
13 inserting <third-party payor>

14 11. Page 4, line 6, by striking <health carrier> and
15 inserting <third-party payor>

16 12. Page 4, by striking lines 8 through 13.

17 13. Page 5, by striking lines 14 through 17.

18 14. By striking page 6, line 1, through page 7, line 18.

19 15. By striking page 9, line 2, through page 10, line 23.

20 16. Page 12, line 16, before <Act> by inserting <division
21 of this>

22 17. Page 12, line 17, by striking <health carrier's>

23 18. Page 12, by striking lines 20 through 24 and inserting:
24 <DIVISION ____
25 PHARMACY BENEFITS MANAGER REPORTING

26 Sec. _____. Section 510C.1, Code 2022, is amended to read as
27 follows:

28 **510C.1 Definitions.**

29 As used in this chapter unless the context otherwise
30 requires:

31 1. *"Administrative fees"* means a fee or payment, other than
32 a rebate, under a contract between a pharmacy benefits manager
33 and a pharmaceutical drug manufacturer in connection with the
34 pharmacy benefits manager's management of a health carrier's
35 third-party payor's prescription drug benefit, that is paid

1 by a pharmaceutical drug manufacturer to a pharmacy benefits
2 manager or is retained by the pharmacy benefits manager.

3 2. *"Aggregate retained rebate percentage"* means the
4 percentage of all rebates received by a pharmacy benefits
5 manager that is not passed on to the pharmacy benefits
6 manager's health carrier third-party payor clients.

7 3. *"Commissioner"* means the commissioner of insurance.

8 4. *"Covered person"* means the same as defined in section
9 ~~514J.102~~ 510B.1.

10 5. *"Formulary"* means a complete list of prescription drugs
11 eligible for coverage under a health benefit plan.

12 6. *"Health benefit plan"* means the same as defined in
13 section ~~514J.102~~ 510B.1.

14 7. *"Health carrier"* means the same as defined in section
15 ~~514J.102~~ 510B.1.

16 ~~8. *"Health carrier administrative service fee"* means a fee or~~
17 ~~payment under a contract between a pharmacy benefits manager~~
18 ~~and a health carrier in connection with the pharmacy benefits~~
19 ~~manager's administration of the health carrier's prescription~~
20 ~~drug benefit that is paid by a health carrier to a pharmacy~~
21 ~~benefits manager or is otherwise retained by a pharmacy~~
22 ~~benefits manager.~~

23 ~~9. 8. *"Pharmacy benefits manager"* means a person who,~~
24 ~~pursuant to a contract or other relationship with a health~~
25 ~~carrier, either directly or through an intermediary, manages a~~
26 ~~prescription drug benefit provided by the health carrier the~~
27 ~~same as defined in section 510B.1.~~

28 ~~10. 9. *"Prescription drug benefit"* means a health benefit~~
29 ~~plan providing for third-party payment or prepayment for~~
30 ~~prescription drugs the same as defined in section 510B.1.~~

31 ~~11. 10. *"Rebate"* means all discounts and other~~
32 ~~negotiated price concessions paid directly or indirectly by~~
33 ~~a pharmaceutical manufacturer or other entity, other than a~~
34 ~~covered person, in the prescription drug supply chain to a~~
35 ~~pharmacy benefits manager, and which may be based on any of the~~

1 ~~following:~~ the same as defined in section 510B.1.

2 ~~a. A pharmaceutical manufacturer's list price for a~~
3 ~~prescription drug.~~

4 ~~b. Utilization.~~

5 ~~c. To maintain a net price for a prescription drug for a~~
6 ~~specified period of time for the pharmacy benefits manager~~
7 ~~in the event the pharmaceutical manufacturer's list price~~
8 ~~increases.~~

9 ~~d. Reasonable estimates of the volume of a prescribed drug~~
10 ~~that will be dispensed by a pharmacy to covered persons.~~

11 11. "Third-party payor" means the same as defined in section
12 510B.1.

13 12. "Third-party payor administrative service fee" means a
14 fee or payment under a contract between a pharmacy benefits
15 manager and a third-party payor in connection with the pharmacy
16 benefits manager's administration of the third-party payor's
17 prescription drug benefit that is paid by a third-party payor
18 to a pharmacy benefits manager or is otherwise retained by a
19 pharmacy benefits manager.

20 Sec. _____. Section 510C.2, subsection 1, unnumbered
21 paragraph 1, Code 2022, is amended to read as follows:

22 Each pharmacy benefits manager shall provide a report
23 annually by February 15 to the commissioner that contains
24 all of the following information regarding prescription drug
25 benefits provided to covered persons of each ~~health carrier~~
26 third-party payor with whom the pharmacy benefits manager has
27 contracted during the prior calendar year:

28 Sec. _____. Section 510C.2, subsection 1, paragraphs c, d, e,
29 and g, Code 2022, are amended to read as follows:

30 ~~c. The aggregate dollar amount of all health carrier~~
31 third-party payor administrative service fees received by the
32 pharmacy benefits manager.

33 ~~d. The aggregate dollar amount of all rebates received~~
34 ~~by the pharmacy benefits manager that the pharmacy benefits~~
35 ~~manager did not pass through to the health carrier~~ third-party

1 payor.

2 e. The aggregate amount of all administrative fees received
3 by the pharmacy benefits manager that the pharmacy benefits
4 manager did not pass through to the ~~health-carrier~~ third-party
5 payor.

6 g. Across all ~~health-carrier~~ third-party payor clients with
7 whom the pharmacy benefits manager was contracted, the highest
8 and the lowest aggregate retained rebate percentages.

9 Sec. _____. Section 510C.2, subsection 2, paragraph a,
10 subparagraph (1), Code 2022, is amended to read as follows:

11 (1) The identity of a specific ~~health-carrier~~ third-party
12 payor.

13 Sec. _____. Section 510C.2, subsection 2, paragraph b, Code
14 2022, is amended to read as follows:

15 b. Information provided under [this section](#) by a pharmacy
16 benefits manager to the commissioner that may reveal the
17 identity of a specific ~~health-carrier~~ third-party payor, the
18 price charged by a specific pharmaceutical manufacturer for
19 a specific prescription drug or class of prescription drugs,
20 or the amount of rebates provided for a specific prescription
21 drug or class of prescription drugs shall be considered a
22 confidential record and be recognized and protected as a trade
23 secret pursuant to [section 22.7, subsection 3.](#)

24 DIVISION _____

25 EMERGENCY RULEMAKING

26 Sec. _____. EMERGENCY RULES. The insurance division of the
27 department of commerce may adopt emergency rules under section
28 17A.4, subsection 3, and section 17A.5, subsection 2, paragraph
29 "b", to implement the provisions of this Act and the rules
30 shall be effective immediately upon filing unless a later date
31 is specified in the rules. Any rules adopted in accordance
32 with this section shall also be published as a notice of
33 intended action as provided in section 17A.4.

34 DIVISION _____

35 EFFECTIVE DATE

1 Sec. ____ . EFFECTIVE DATE. This Act, being deemed of
2 immediate importance, takes effect upon enactment.>

3 19. Title page, line 2, after <including> by inserting
4 <effective date and>

5 20. By renumbering, redesignating, and correcting internal
6 references as necessary.